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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,531	02/23/2004	David M. Stravitz	03672/LH	1565
1933	7590	12/02/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			HEWITT, JAMES M	
767 THIRD AVENUE			ART UNIT	
25TH FLOOR			PAPER NUMBER	
NEW YORK, NY 10017-2023			3679	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/785,531	Applicant(s) STRAVITZ, DAVID M.	
	Examiner James M. Hewitt	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/23/04, 8/9/04 and 9/15/05.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6-12, 14, 15, 22-24 and 26-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 13, 16-21 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/23/04 &amp; 8/9/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Species XII (Figure 7A) in the reply filed on 9/15/05 is acknowledged.

Claims 3, 6-12, 22-24 and 26-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/15/05.

Regarding Applicant's assertion that claim 1 is generic, the Examiner disagrees. The limitation requiring the second edges to be opposite one another in a closed position is not readable on every species.

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the locking means on each of the first and second engagement portions (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The abstract of the disclosure is objected to because on line 8, "wuick" should be replaced with "quick". Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claims 1-2, 4-5, 13, 16-21 and 25 are objected to because of the following informalities:

In claim 1 line 5, "edge" should be "edges".

In claim 1 line 6, "edge" should be "edges".

In claim 20 line 7, it is unclear what the phrase "and including a groove" modifies.

And note that the recitation "said grooves" on the last line of the claim.

Appropriate correction is required.

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/839,898. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 13, 21 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Filippi (US 4,008,937).

With respect to claim 1, Fillipi discloses a connector for connecting a pair of tubular components together, comprising: a pair of generally semi-cylindrical members (41, 42) each having a first edge and a second edge, said semi-cylindrical members being at said first edge and separable rotatably connected together from one another at said second edge to thereby provide said semi-cylindrical members with an open position in which said second edges are separated from one another and a closed position in which said second edges are opposite one another; and locking means (see Figure 2) arranged in connection with said semi-cylindrical members for locking said semi-cylindrical members one another with said second edges opposite one another.

With respect to claim 2, further comprising a hinge (54) for rotatably connecting said first edge of a first one of said semi-cylindrical members to said first edge of a second one of said semi-cylindrical members.

With respect to claim 5, wherein said locking means comprise a locking lever pivotally arranged on a first one of said semi-cylindrical members at said second edge of said first semi-cylindrical member, tension lever connected to said locking lever, and a projection formed at said second edge of a second one of said semi-cylindrical members and including a groove, said locking lever being pivotable to enable said tension lever to engage with said groove. Refer to Figures 1-2 and 5.

With respect to claim 13, further comprising locking flanges (44, 46) formed on inner surfaces of at least one of said semi-cylindrical members, said locking flanges being adapted to engage with a tubular component.

With respect to claim 21, wherein said semi-cylindrical members are formed from a rigid material. Cross-hatching of the members in Figure 3 indicates that they are metal.

With respect to claim 25, further comprising a sealing layer (34) arranged to extend circumferentially over inner surfaces of said semi-cylindrical members. In the broadest reasonable sense, sleeve (34), as it acts to retain seal rings (31, 32) and as it engages the seal rings and inner surface of the semi-cylindrical member, has been interpreted as a "sealing layer".

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Filippi (US 4,008,937) in view of Martin (US 5,351,996).

Filippi fails to teach that said hinge a living hinge integrally formed in connection with said first and second semi-cylindrical members. Martin teaches a similar device comprised of two semi-cylindrical members joined by a living hinge (28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace Filippi's hinge with Martin's hinge as a matter of design choice.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fillipi (US 4,008,937) in view of McGowen et al (US 4,142,743).

With respect to claim 16, Fillipi fails to teach that each of the semi-cylindrical members includes first and second engagement portions having different radii of curvature. In Figure 6, McGowen et al teaches a similar coupling device with engagement portions having different radii of curvature in order to accommodate tubes of different diameters. In view of McGowen's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fillipi's semi-cylindrical members such that their first and second engagement portions have different radii of curvature in order to accommodate tubes of different diameters.

With respect to claim 17, refer to Figure 6 in McGowen showing an arcuate lip (29) that serves as an abutment for tube (37).

With respect to claim 18, one of Fillipi's semi-cylindrical members (41, 42) includes an axially oriented extension (60a) contiguous with said first engagement portion.

With respect to claim 19, refer to the above rejection of claim 5.

With respect to claim 20, Fillipi discloses the claimed invention except for two locking means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ two adjacent locking means, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

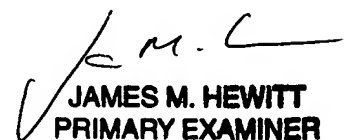
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hewitt whose telephone number is 571-272-7084. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**